

REMARKS

In the above-captioned patent application, the Examiner has issued a restriction requirement, restricting the invention to the following five groups:

- I. Claim 1 drawn to a method of treating behavioral disorders;
- II. Claims 2-6, drawn to methods of enhancing cognitive function;
- III. Claims 7-9, drawn to methods of treating a condition characterized by abnormal extracellular glutamate concentrations;
- IV. Claim 10 drawn to a method of treating prostate disease; and
- V. Claims 12-16, drawn to pharmaceutical formulations comprising clavulanic acid compounds.

The Examiner contends that the inventions are independent and distinct from each other. However, the Examiner acknowledges that claim 11 is a linking claim between Groups I and II, and that claim 17 is a linking claim between Groups III and IV. Finally, the Examiner acknowledges that the product claims of Group V and the process claims of Groups I and II, though currently restricted in the Office Action, may be rejoined upon allowance of the product claims pursuant to MPEP § 821.04.

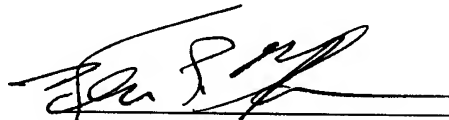
Claims 1 and 2 have been amended to depend from linking claim 11, as identified by the Examiner. Claim 11 has been amended to clarify that the recited “salt” is a salt of clavulanic acid.

Applicant respectfully traverses the restriction requirement. Applicant points out that each of the invention Groups delineated by the Examiner relate in fact to a single invention. Applicant believes that this relationship is clear when it is considered that each of the claim groups shares a substantial technical feature in common, namely clavulanic acid, or a salt thereof, or an active ester form thereof that is hydrolyzed *in vivo* to clavulanic acid. The Examiner bases the restriction requirement on the recited uses of those compounds in claims 1-11, and the different statutory classes, *viz.* product versus process claims. In contrast, Applicant respectfully argues herein that the Examiner has failed to give sufficient weight to the substantial feature in common, that highly focused group of compounds consisting of clavulanic acid, salts thereof, and active esters thereof, required by each of the pending claims. Accordingly, Applicant considers that the inventions segregated into Groups I-V by the Examiner are not independent nor distinct, as defined by 35 U.S.C. § 121 and 37 C.F.R. § 1.141, and therefore should not be restricted. Therefore, Applicant respectfully requests withdrawal of the restriction requirement and rejoinder of each of the five groups defined by the Examiner.

Should the Examiner nevertheless maintain the restriction requirement, Applicant herein elects the invention of Group II. In addition, because the Examiner has indicated that claim 11 is a linking claim, and Applicant has amended claim 2 (Group II) to ultimately depend from claim 11, Applicant requests rejoinder of the linking claim into Group II. Further, because claim 1 (Group I) has similarly been amended to ultimately depend from linking claim 11, Applicant requests rejoinder of Groups I and II, as linked by linking claim 11. Applicant notes that an election of species is not required for the election of Group II. However, upon rejoinder, Applicant respectfully requests that a telephonic interview is scheduled with Applicant's representative, the undersigned below, wherein an election of a species from Group I may be made. Applicant's representative may be reached by telephone at (317) 231-7776 or by e-mail at kevin.mclaren@btlaw.com.

Respectfully submitted,

BARNES & THORNBURG LLP

A handwritten signature in black ink, appearing to read 'Kevin L. McLaren', is written over a horizontal line.

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